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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/730,873 | 12/05/2000 | Stephan Baucke | 34645-527USPX<br>P11901US | 9361 |

7590 10/03/2003

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| EXAMINER | |
|---|---|
| NAJJAR, SALEH | |
| **ART UNIT** | **PAPER NUMBER** |
| 2157 | 7 |

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PRG

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/730,873 | BAUCKE ET AL. | |
| | Examiner | Art Unit | |
| | Saleh Najjar | 2157 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *23 February 2001* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *4* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

**1.** This action is responsive to the preliminary amendment filed on February 23, 2001. Claims 1, 4, 5-8, 10-13, and 16-18 were amended. Claims 1-16 are pending. Claims 1-16 represent method and apparatus directed toward processing blocking and non-blocking system call operations in a network.

**2.** The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

**3.** The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 6, 10, and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 refers to processing a non-blocking system call without blocking the execution of the calling application. It is unclear what the claim refers to since a non-blocking call by nature executed without blocking. Claim 6 refers to returning results of a blocking system calls when claim 1 calls for determination that the call is non-blocking. Claims 10-11 refer to blocking states when it is assumed that non-blocking system call is performed.

**4.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**5.** Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Ungar, U.S. Patent No. 6,282,702.

Ungar teaches the invention as claimed including a method and system for executing blocking and non-blocking system calls in a network using a virtual machine environment (see abstract).

As to claim 1, Ungar teaches a method for a fast performance of network operations via a network having high delay times by means of a module for processing a system call of an application layer and for initiating network operations of a network layer, with the following steps:

transmission of the system call to the module, determination of an execution mode of the system call by differentiating between a blocking and a non-blocking execution mode (see 1-7; col. 11-12, Ungar discloses that blocking and non-blocking system calls are identified), and

direct return of a logical value to the application layer and initiation of a network operation in the case of a non-blocking performance mode (see col. 10-13).

As to claim 2, Ungar teaches the method according to claim 1, wherein the network operation is transmitted to a partner instance communicating with a unit initiating the network operation (see figs. 3-7; col. 10-13, Ungar discloses that system call operations are initiated through a node on a network).

As to claim 3, Ungar teaches the method according to claim 2, wherein the network operation received in the partner instance is converted into an operation, which is performed, and wherein a result of the operation is returned to the unit, that initiated the network operation (see col. 10-13).

As to claim 4, Ungar teaches the method according to claim 3, wherein a processing of the received result of an operation is realized in the module (see col. 10-13).

As to claim 5, Ungar teaches the method according to claim 1, wherein, upon the initiation of the network operation a non-blocking system call is converted into a state, in

which an actual result of the system call executed in a partner instance is awaited without blocking the execution of the calling application (see col. 10-13).

As to claim 6, Ungar teaches the method according to claim 3, wherein the received results refer to a non-blocking state and have a logical value, or are a result of a blocking system call executed in the partner instance (see col. 10-13).

As to claim 7, Ungar teaches the method according to claim 3, wherein the received results with a non-blocking execution mode are buffered (see col. 10-13).

As to claim 8, Ungar teaches the method according to claim 1, wherein the logical values either have a logical positive or a logical negative propositional value (see col. 10-13).

As to claim 9, Ungar teaches the method according claim 8, wherein the logical negative results are reported to the application with the execution of the following system call in the form of a logical negative return value (see col. 10-13).

As to claim 10, Ungar teaches the method according to claim 3, wherein, with a nonblocking system call, in the case of non-pending negative results of previous calls a logical positive value is returned to the application (see col. 10-13).

As to claim 11, Ungar teaches the method according to claim 1, wherein the last system call of a connection is set into a blocking state in order to guarantee a return report of the results of the previously performed operations (see col. 10-13).

As to claim 12, Ungar teaches the method according to claim 1, wherein blocking system calls are realized by waiting for the result of the system call executed in the partner instance (see col. 10-13).

As to claim 13, Ungar teaches the method of claim 1, wherein the system calls are socket system calls (see col. 10-13).

As to claim 14, Ungar teaches the method of claim 13, wherein the socket system calls form a programming interface for an operating system (see col. 10-13).

As to claim 15, Ungar teaches the method according to cl im 1, wherein the module is a pipeline module (see col. 10-13).

Claims 16-17 do not teach or define any new limitations above claims 1-15 and therefore are rejected for similar reasons.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ario Etienne*, can be reached on (703) 308-7562. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The central official fax number for the group is (703) 872-9306.

Saleh Najjar
Primary Examiner / Art Unit 2157